



California Regional Water Quality Control Board

Santa Ana Region



Linda S. Adams
Secretary for
Environmental Protection

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Arnold Schwarzenegger
Governor

April 24, 2008

Mr. Craig Esterly
Fire Resources, Inc.
10909 Almond Avenue
Fontana, CA 92337

CERTIFIED MAIL
RETURN RECEIPT REQUESTED

ORDER NO. R8-2008-0031

Dear Mr. Esterly:

This is to confirm the action taken by the Regional Board at the April 18, 2008 Board meeting. The Board adopted Order Number R8-2008-0031 affirming the assessment of \$8,360 as specified in the amended Administrative Civil Liability Complaint No. R8-2008-0011. A certified copy of Order No. R8-2008-0031 is enclosed. The assessed amount is due and payable to the State Water Resources Control Board by May 19, 2008. The check should be made payable to the "State Water Resources Control Board" and mailed to this office in the enclosed preprinted envelope. In the event that the payment is not received by the date indicated above, this matter may be referred to the Attorney General for further enforcement, including collection of the assessed amount.

You have the right to appeal the Regional Board's decision to the State Water Resources Control Board within 30 days of the Regional Board's action. If you have any questions regarding the appeal process, please contact Mr. David Rice, our legal counsel, at 916-341-5182. Additional information on petitions can be found at:

http://www.waterboards.ca.gov/public_notices/petitions/water_quality/wqpetition_instr.shtml

If you have any questions or require assistance regarding this matter, you may contact Kathleen Fong at (951) 774-0114 or Milasol C. Gaslan at (951) 782-4419.

Sincerely,

Gerard J. Thibeault
Executive Officer

Enclosures: Certified Copy of Order No. R8-2008-0031, Preprinted Envelope

cc via email only:

Mr. Bruce Fujimoto, State Water Resources Control Board, Div. of Water Quality
Ms. Kathi Moore, U.S. Environmental Protection Agency, Region 9 (WTR-7)
Mr. David Rice, State Water Resources Control Board, Office of Chief Counsel
Mr. Dan Chadwick, City of Fontana, NPDES Coordinator

California Environmental Protection Agency



**STATE OF CALIFORNIA
REGIONAL WATER QUALITY CONTROL BOARD
SANTA ANA REGION**

In the matter of:)	Order No. R8-2008-0031
)	for
Mr. Craig Esterly and)	Administrative Civil Liability
Fire Resources, Inc.)	
10909 Almond Avenue)	
Fontana, CA 92337)	
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The California Regional Water Quality Control Board, Santa Ana Region (hereinafter Board), held a hearing on April 18, 2008 to receive testimony and take evidence on the allegations contained in Complaint No. R8-2008-0011 (amended) and on the recommendation for the imposition of administrative civil liability pursuant to California Water Code Sections 13385 and 13399.33 in the amount of \$8,360. The Board finds as follows:

1. On April 17, 1997, the State Water Resources Control Board (SWRCB) adopted Waste Discharge Requirements, Order No. 97-03-DWQ, (NPDES No. CAS000001), General Permit for Storm Water Discharges Associated with Industrial Activities (Permit). Fire Resources, Inc., (Fire Resources), located at 10909 Almond Avenue, Fontana, is authorized to discharge storm water under the Permit, WDID 8 36I011699. The Permit requires submittal of an annual report by July 1 of each year. Fire Resources did not submit the annual report by July 2, 2007 (July 1, 2007 was a Sunday). Subsequently, Board staff sent two certified Notices of Non-Compliance (NNCs) to Fire Resources. The first NNC was sent by certified mail on August 7, 2007, but it was returned unclaimed on September 4, 2007. Subsequently Board staff sent the NNC by regular mail and it was received by the facility (verified during a telephone conversation). On September 10, 2007, a second NNC was sent to the facility by certified mail and it was also returned unclaimed on October 5, 2007. A copy of the second NNC was sent by regular mail and was received by the facility.
2. In both NNCs, Board staff requested submittal of the completed annual report, a statement explaining why the annual report was not submitted by the July 2 deadline, and the measures that would be taken to ensure that future annual reports are submitted on time. Both NNCs also warned about the mandatory penalty for failure to submit the annual report. In the second NNC, Board staff requested submittal of the completed annual report by October 10, 2007.

3. On September 5, 2007, Board staff visited the site but observed no one at the site. Staff later spoke to Mr. Craig Esterly by telephone regarding the delinquent annual report. Mr. Esterly indicated that the facility is open only a few days a month, hence, there may be difficulties with certified mail and return receipts, but the mailing address is valid and they are still in operation. On September 6, 2007, Board staff spoke to Messrs. Craig and Dennis Esterly and reminded them that the annual report was overdue and of the consequences of non-submittal. On October 4, 2007, Board staff called Mr. Craig Esterly and left a message reminding him to submit the annual report by October 10, 2007, or a penalty would be assessed. As of March 28, 2008, the annual report had not been received. In addition, the facility has not paid the annual permit fees for 2002-03, 2004-05, and 2006-07.
4. The facility violated the General Permit, the Federal Clean Water Act and the California Water Code by failing to submit the annual report by July 2, 2007.
5. Water Code Section 13399.33(c) requires the Board to assess a mandatory penalty of one thousand dollars (\$1,000) for failure to submit the annual report. Additionally, Water Code Section 13385(a)(2) provides that any person who violates waste discharge requirements issued pursuant to Federal Clean Water Act shall be civilly liable. Section 13385(c) provides that civil liability may be administratively imposed by a regional board in an amount not to exceed \$10,000 per day of violation. The total maximum liability for failure to submit the annual report is \$1,860,000.
6. Water Code Section 13385(e) specifies factors that the Board shall consider in establishing an amount of civil liability, including prior history of violations. Fire Resources has a long history of non-compliance with timely submittal of the annual reports including a penalty assessment of \$3,000 for non-submittal of the 1996-1997 annual report. In addition, Fire Resources received a number of NNCs for late submittal of annual reports. These and other factors were considered by the Assistant Executive Officer in establishing the amount of civil liability.
7. On January 4, 2008, the Assistant Executive Officer issued Administrative Civil Liability Complaint No. R8-2007-0011 to Fire Resources proposing that the Board impose civil liability in the amount of \$6,000 on Fire Resources for failure to submit the annual report by the due date.
8. Further, Fire Resources has not paid its permit fees for 2002-03, 2004-05, and 2006-07. The following invoices have not been paid: 0631322 (\$830), 0432028 (\$830), 0231345 (\$700). The total unpaid permit fees = \$2,360. On March 24, 2008, the Assistant Executive Officer amended ACL No. R8-2008-0011 to hold Mr. Craig Esterly and Fire Resources, Inc. individually and jointly responsible for the violations and to add the unpaid permit fees to the assessment.

9. Issuance of this Order is exempt from the provisions of the California Environmental Quality Act (Public Resources Code Section 2100 et seq.) in accordance with Section 15321, Chapter 3, Title 14, California Code of Regulations.

IT IS HEREBY ORDERED that, pursuant to California Water Code Sections 13385 and 13399.33, an administrative civil liability shall be imposed on Mr. Craig Esterly and Fire Resources, Inc., in the amount of \$8,360 for the violations cited in Complaint No. R8-2008-0011 (first issued on January 4, 2008 and as amended on March 24, 2008), payable as set forth below.

1. Mr. Craig Esterly and/or Fire Resources, Inc., shall pay the entire amount of \$8,360 to the State Water Resources Control Board by May 18, 2008.

The Executive Officer is authorized to refer this matter to the Attorney General for enforcement.

Pursuant to Water Code Section 13320, Mr. Craig Esterly and/or Fire Resources may petition the State Water Resources Control Board for a review of this Order. If you choose to do so, you must submit the petition to the State Board within 30 days of the Regional Board's adoption of this Order.

I, Gerard J. Thibeault, Executive Officer, do hereby certify that the foregoing is a full, true, and correct copy of an order adopted by the California Regional Water Quality Control Board, Santa Ana Region, on April 18, 2008.



Gerard J. Thibeault
Executive Officer